IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 62 of 2005 (S/B)

Yuv Raj Singh,
S/o Sri Ganga Sharma,
R/o Officiating Executive Engineer,
Rural Engineering Services,
Rudraprayag Division,
District Rudraprayag. …..... Petitioner

Versus

1. State of Uttaranchal
through Secretary, Panchayati Raj and
Rural Engineering Services, Dehradun.
2. Chief Engineer,
Rural Engineering Services,
Uttaranchal, Dehradun.
3. Darshan Lal (Assistant Engineer),
Rural Engineering Services,
Almora. …….. Respondents

Mr. S.N. Babulkar, Senior Advocate assisted by Mr. Tumul Nailwal, Advocate for the petitioner.
Mr. K.P. Upadhyaya, Standing Counsel for the State.

Coram: Hon. Cyriac Joseph, C.J.
Hon. P.C. Verma, J.

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

1. The petitioner while holding the post of Assistant Engineer, Rudraprayag was allowed to officiate as Executive Engineer, Rudraprayag in the absence of a regularly appointed Executive Engineer. Now as per Annexure 2 Order dated 2nd April, 2005, the third respondent Sri Darshan Lal has been posted to officiate as Executive Engineer, Rudraprayag till the post of Executive Engineer is filled-up on regular basis.

2. Admittedly, the third respondent is senior to the petitioner in the category of Assistant Engineer. It is also not disputed that as per Annexure 2 Order the petitioner has not been removed from the post of Assistant Engineer, Rudraprayag and that notwithstanding Annexure 2 Order, the petitioner continues to function as the Assistant Engineer, Rudraprayag. The third respondent has replaced the

petitioner only for officiating as Executive Engineer, Rudraprayag. It is for the second respondent to decide who should be asked to officiate as Executive Engineer, Rudraprayag till the post is filled-up on regular basis. The second respondent has decided to ask the third respondent to officiate as Executive Engineer till the post is filled-up on regular basis. Since the third respondent is, admittedly, senior to the petitioner in the category of Assistant Engineer, the above decision of the second respondent Chief Engineer cannot be said to be illegal or arbitrary. No fundamental right or vested right of the petitioner has been infringed by Annexure 2 Order. Merely because the petitioner happened to officiate as Executive Engineer, Rudraprayag for sometime on the basis of Annexure 1 Order, he has no right to insist that he should be allowed to officiate as Executive Engineer till the post is filled-up on regular basis. It is purely an administrative matter to be decided by the second respondent Chief Engineer and so long as his decision is not illegal or arbitrary, the High Court cannot interfere with the decision invoking the jurisdiction under Article 226 of the Constitution of India. As already observed, the decision of the second respondent cannot be said to be illegal or arbitrary as the third respondent is admittedly senor to the petitioner in the category of Assistant Engineer and as the right of the petitioner to continue as Assistant Engineer, Rudraprayag has not been affected by Annexure 2 Order.

3. For the reasons stated above, there is no merit in the writ petition and the writ petition is dismissed.

(P.C. Verma, J.) **(Cyriac Joseph, C.J.)**
26.04.2005 **26.04.2005**

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